

233694

BEFORE THE
SURFACE TRANSPORTATION BOARD

Docket No. AB-1103X

RUSK COUNTY RURAL RAIL DISTRICT—
ABANDONMENT EXEMPTION—IN RUSK COUNTY, TX

PETITION FOR EXEMPTION

ENTERED
Office of Proceedings

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Public Record

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**SURFACE
TRANSPORTATION BOARD**

C. Brian Cassidy
Lori Fixley Winland
Locke Lord LLP
100 Congress Avenue, Suite 300
Austin, TX 78701
512.305 4700

Attorneys for RUSK COUNTY RURAL RAIL DISTRICT

FILED FOR WAIVER

Submitted: September 28, 2012

Rusk County Rural Rail District
Petition for Exemption
STB Docket No AB-1103X

BEFORE THE
SURFACE TRANSPORTATION BOARD

Docket No AB-1103X

RUSK COUNTY RURAL RAIL DISTRICT—
ABANDONMENT EXEMPTION—IN RUSK COUNTY, TX

PETITION FOR EXEMPTION

The Rusk County Rural Rail District (the "RCRRD") petitions the Surface Transportation Board (the "Board") to exempt, under 49 U.S.C. § 10502, the RCRRD's abandonment of a portion of its Henderson-Overton Branch Spur from Milepost 15.2 to Milepost 16.1, a distance of 0.9 miles in Rusk County, Texas (the "Line"), from the prior approval requirements of 49 U.S.C. § 10903

The RCRRD is seeking abandonment of the Line because the Line is not in operation and is no longer needed for the transportation of commodities

PROPOSED TRANSACTION

The RCRRD proposes to abandon a portion of the Henderson-Overton Branch Spur from Milepost 15.2 to Milepost 16.1, a distance of 0.9 miles in Rusk County, Texas. The Line traverses U.S. Postal Service Zip Code 75652. A map of the Line is attached as Exhibit A. The Combined Environmental and Historic Report is attached as Exhibit B. The draft *Federal Register* notice is attached as Exhibit C, and copies of the newspaper publication and the required certification are attached as Exhibit D. A letter of support from Blacklands Railroad (the operator of the Henderson-Overton Branch Spur) is attached as Exhibit E. The certificate of service is attached as Exhibit F.

Rusk County Rural Rail District
Petition for Exemption
STB Docket No. AB-1103X

Based on information in the RCRRD's possession, the Line does not contain federally granted right-of-way. Any documentation in the RCRRD's possession concerning title will be made available to those requesting it. There are no stations on the Line.

BACKGROUND

Henderson is a city in northeast Texas with a population of approximately 13,700 and is the county seat of Rusk County, Texas. The RCRRD is a political subdivision of the State of Texas established by the Rusk County Commissioners Court and charged with preserving and expanding rail service for the benefit of the businesses and citizens of Rusk County. The RCRRD purchased the Henderson-Overton Branch Spur, an approximately 14-mile rail line from Overton, Texas to Henderson, Texas, from Union Pacific in May 2010.

The Henderson-Overton Branch Spur was designed to terminate in the heart of Henderson's downtown housing district, which was in keeping with city planning practices at the time that the spur was constructed many years ago. Changes in land use and business markets, however, have made termination of the Henderson-Overton Branch Spur in the center of downtown Henderson problematic. The operator of the Henderson-Overton Branch (Blacklands Railroad), shippers, and Henderson residents alike would prefer that the spur terminate just north of downtown in a more industrial area better suited for freight rail operations. In fact, the Line is not currently in operation. The last rail traffic on the Line was in August 2011; since that time, all rail traffic on the Henderson-Overton Branch Spur has terminated approximately one mile north of downtown. Further, the City of Henderson would like to use the corridor occupied by the last 0.9 miles of the Henderson-Overton Branch Spur to repair and construct a much-needed city street.

Upon receiving abandonment authority for the Line, the RCRRD, though its operator, Blacklands Railroad, will continue to provide rail service on the remaining 13 miles of the Henderson-Overton Branch Spur, with service terminating approximately one mile north of downtown Henderson in a location more convenient for shippers and Henderson residents. As there is no current rail traffic on the Line, no rail traffic will be diverted as a result of the abandonment. There are no shippers on the Line.

The City of Henderson has expressed an interest in purchasing the abandoned rail corridor for use in connection with a road construction project. The RCRRD intends to sell the land to the City for such purposes. The City of Henderson is currently securing agreements from landowners in order to alleviate any concerns regarding any possible revisionary interests in the land.

Additionally, abandonment will allow the RCRRD to avoid the costs of operating and maintaining the Line.

In short, abandonment of the Line will reduce a burden on the RCRRD, ensure that rail service on the Henderson-Overton Branch Spur continues with a termination point that is convenient for the operator and shippers, and benefit the City of Henderson and its residents by leading to the construction of a much-needed city street.

The RCRRD therefore contends that in balancing the reduced burden to itself and interstate commerce against the absence of harm to shippers and local interests, the balance clearly favors abandonment. In fact, local interests will actually benefit from the abandonment.

ARGUMENT SUPPORTING THE ABANDONMENT

The RCRRD seeks an exemption under 49 U.S.C. § 10502 from the applicable requirements of 49 U.S.C. § 10903 in order to abandon the Line.

Under 49 U.S.C § 10502, the Board must exempt a transaction from regulation when it finds that.

(1) regulation is not necessary to carry out the rail transportation policy of 49 U.S.C § 10101; and

(2) either:

a) the transaction is of limited scope, or

b) regulation is not necessary to protect shippers from the abuse of market power.

1. The Application of 49 U.S.C. § 10903 Is Not Necessary to Carry Out the Rail Transportation Policy of 49 U.S.C. § 10101

Detailed scrutiny of the RCRRD's proposed abandonment is not necessary to carry out the rail transportation policy set forth in 49 U.S.C. §10101. An exemption would minimize the administrative expense of the application process, expediting regulatory action and reducing regulatory barriers to exit, in accordance with 49 U.S.C. §§ 10101(2) and (7). Further, an exemption would foster sound economic conditions in transportation and encourage efficient management, consistent with 49 U.S.C. §§10101(5) and (9), by permitting the abandonment of an unnecessary common carrier rail line which will be put to beneficial use for other modes of transportation by the City of Henderson. Granting the proposed exemption would not be adverse to the remaining elements of the rail transportation policy as competition among rail carriers would not be affected nor would any activities occur which would be to the detriment of public health and safety.

2. This Transaction Is Of Limited Scope

The proposed transaction is of limited scope. The RCRRD seeks to abandon a 0.9 mile line located in one rural county in Texas. The remaining 13 miles of the Henderson-Overton Branch Spur will remain unaffected by the proposed abandonment.

3. This Transaction Will Not Result In An Abuse Of Market Power

As previously stated, the last rail traffic on the Line was in August 2011. As the Line has not been in use for more than one year, and there is not a desire for future use of the Line by shippers, the proposed exemption will not result in an abuse of market power.

ENVIRONMENTAL & HISTORIC REPORT

The Combined Environmental & Historic Report is attached as Exhibit B

FEDERAL REGISTER NOTICE

The draft Federal Register notice is attached as Exhibit C. A copy of the draft *Federal Register* notice is included as data contained on a computer diskette compatible with the Board's current word processing capabilities.

LABOR PROTECTION

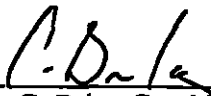
It is not anticipated that the abandonment will adversely affect the interests of railroad employees of the RCRRD or its operator, Blacklands Railroad. Nonetheless, the interests of any railroad employees who may be adversely affected by the proposed abandonment will be adequately protected by the labor protective conditions in *Oregon Short Line R. Co — Abandonment—Goshen*, 360 I.C.C. 91 (1979)

CONCLUSION

As discussed above, application of the regulatory requirements and procedures of 49 U.S.C. § 10903 to the abandonment of the Line proposed by the RCRRD is not required to carry out the rail transportation policy set forth in 49 U.S.C. § 10101. Further, Board regulation is not required to protect shippers from the abuse of market power, and the proposed abandonment is of limited scope.

Accordingly, the RCRRD respectfully asks the Board to grant an exemption for the proposed abandonment of the Line.

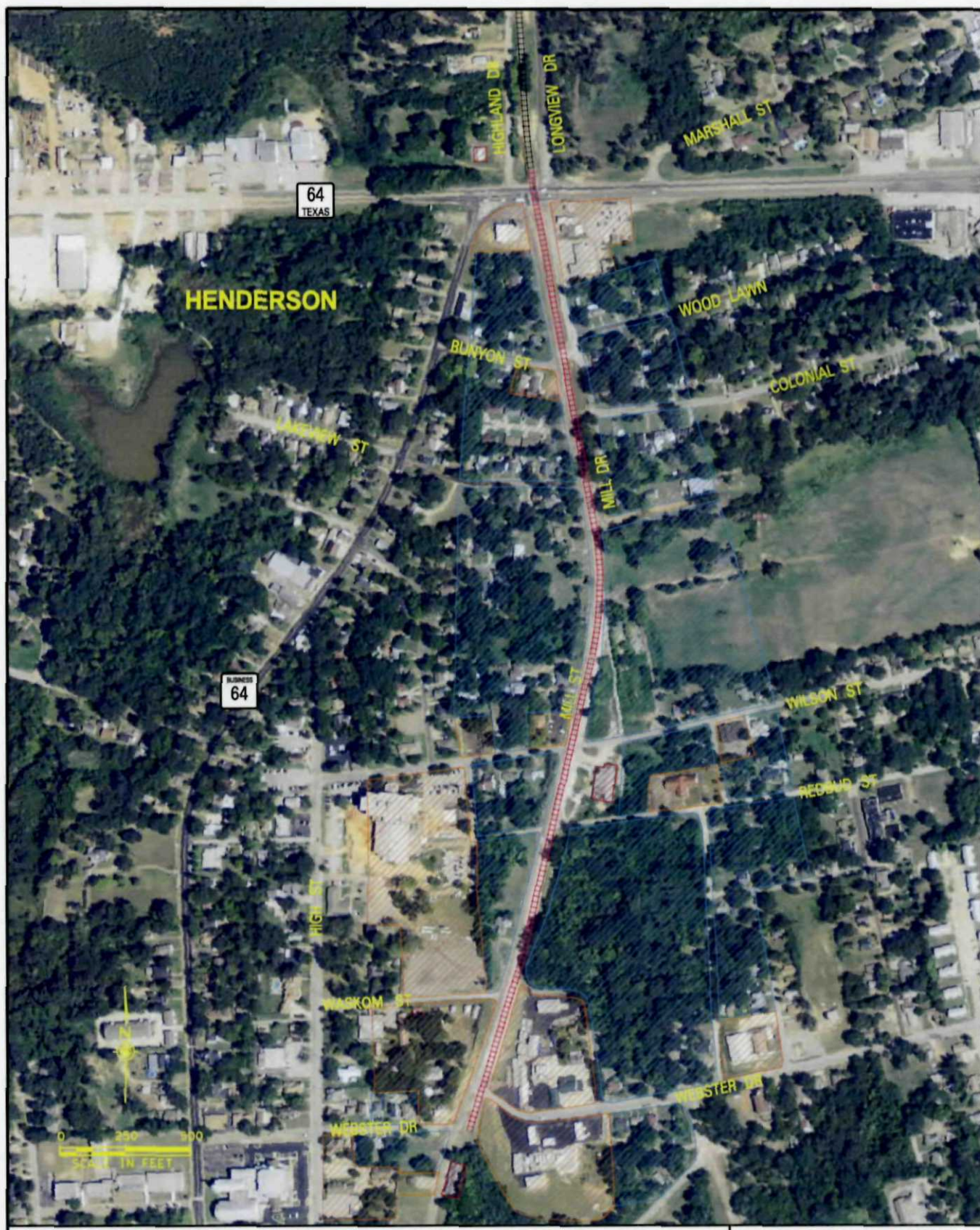
Respectfully submitted,
LOCKE LORD LLP

By. 
C. Brian Cassidy
State Bar No. 03978880
Lori Fixley Winland
State Bar No. 24048893
100 Congress Ave., Suite 300
Austin, Texas 78701
(512) 305-4700
(512) 305-4800 (Facsimile)





ATTORNEYS FOR RUSK COUNTY RURAL
RAIL DISTRICT

Exhibit A
Map

Rusk County Rural Rail District
Petition for Exemption
STB Docket No. AB-1103X



LEGEND

-  ABANDONED RAIL
-  COMMERCIAL PROPERTY
-  RESIDENTIAL PROPERTY
-  ABANDONED BUILDING

RUSK COUNTY
RAIL DISTRICT
ABANDONED RAIL

Exhibit B
Combined Environmental and Historic Report

Rusk County Rural Rail District
Petition for Exemption
STB Docket No. AB-1103X

Combined Environmental and Historic Report

The Rusk County Rural Rail District ("RCRRD") submits this Combined Environmental and Historic Report pursuant to 49 C.F.R. § 1105.7(e) and 49 C.F.R. §1105.8(d), respectively, for authorization to abandon a portion of its Henderson-Overton Branch Spur (the "Line") from Milepost 15.2 to Milepost 16 1, a distance of 0.9 miles in Rusk County, Texas. The Line traverses U S. Postal Service Zip Code 75652

A map of the Line (Attachment No. 1) and the RCRRD's letters to federal, state and local government agencies (the "RCRRD Letters") (Attachment No. 2) are attached hereto and hereby made a part hereof. Responses received thus far to the RCRRD Letters are attached and are referenced and incorporated herein in appropriate sections of this Combined Environmental and Historic Report.

ENVIRONMENTAL REPORT **49 C.F.R. § 1105.7(e)**

(1) Proposed action and alternatives.

Describe the proposed action, including commodities transported, the planned disposition (if any) of any rail line and other structures that may be involved, and any possible changes in current operations or maintenance practices. Also describe any reasonable alternatives to the proposed action. Include a readable, detailed map and drawings clearly delineating the project.

Response: The proposed action involves the abandonment and discontinuance of service on the Line from Milepost 15.2 to Milepost 16 1, a distance of 0.9 miles in Rusk County, Texas. The Line is currently not in operation and therefore not used for the transportation of commodities. A map delineating the proposed abandonment is included in Attachment No. 1.

Reasons for the abandonment: The original design of the Line terminates in the heart of Henderson's downtown housing district. In the 1877-1950 usage model, this termination point was normal. In today's business market and city planning, termination of the Line in the center of downtown Henderson is problematic for residents and shippers. Due to overwhelming need by the City of Henderson and minimal usage potential for the RCRRD, the RCRRD has agreed to abandon and sever the last portion of the Line so that the City of Henderson may use the corridor for a city street. Additionally, the City of Henderson constructed a city street ("Mill Street") in the RCRRD right of way in the late 1950s, and Mill Street serves as the main thoroughfare for seventeen households. Due to the City of Henderson's lack of ownership of the corridor, it is impossible for them to repair the existing street properly, thus creating a generational problem. There are no reasonable alternatives to the abandonment.

Revenue from current traffic is insufficient to cover operating expenses of the Line and the estimated cost for necessary rehabilitation of the Line. Further, there is no imminent location of new rail oriented industry that would justify either the Line's continued operation or rehabilitation. There is no overhead traffic on the Line.

Rusk County Rural Rail District
Combined Environmental and Historic Report
STB Docket No. AB-1103X

Alternatives: After abandonment, rail service would continue to remain available on the remaining 14 miles of the Henderson-Overton Branch Spur. Service would terminate approximately one mile North of downtown Henderson in a location more convenient for shippers, operators, and Henderson residents.

(2) Transportation system.

Describe the effects of the proposed action on regional or local transportation systems and patterns. Estimate the amount of traffic (passenger or freight) that will be diverted to other transportation systems or modes as a result of the proposed action.

Response: There is no current rail traffic on the Line and, therefore, no rail traffic will be diverted as a result of the abandonment. The last rail traffic on the line was in August 2011. Because abandonment of the Line will allow the RCRRD to transfer ownership of the corridor to the City of Henderson, thereby allowing the City to both complete necessary repairs to Mill Street and the previously unfinished redesign of the Highway 64 crossing, the abandonment will have a positive effect on local transportation patterns.

(3) Land use

(i) Based on consultation with local and/or regional planning agencies and/or a review of the official planning documents prepared by such agencies, state whether the proposed action is consistent with existing land use plans. Describe any inconsistencies.

(ii) Based on consultation with the U.S. Soil Conservation Service, state the effect of the proposed action on any prime agricultural land.

(iii) If the action affects land or water uses within a designated coastal zone, include the coastal zone information required by §1105.9.

(iv) If the proposed action is an abandonment, state whether or not the right-of-way is suitable for alternative public use under 49 U.S.C. § 10905 and explain why.

Response: (i) The RCRRD intends to sell the property which makes up the right-of-way to the City of Henderson after completion of the proposed abandonment. The City of Henderson is currently securing agreements from landowners in order to alleviate any concerns regarding any possible revisionary interests in the land. This proposal is therefore consistent with existing land use plans.

The RCRRD has reviewed the land use plans for the Longview Metropolitan Planning Organization ("MPO") and the Tyler MPO and has determined that neither organization's plans include the land on which the Line is situated. The RCRRD contacted the Longview and Tyler MPOs in connection with the long range planning process by letter dated May 1, 2012 (see Attachment No. 2). To date the RCRRD has received no response from either entity.

(ii) The United States Natural Resources Conservation Service has evaluated the proposed abandonment as required by the Farmland Protection Policy Act ("FPPA"). A Farmland Conversion Impact Rating was completed indicating that the proposed abandonment would not be considered a conversion of important farmland. The United States Natural Resources Conservation Service's response, dated May 8, 2012, is attached as Attachment No. 3 and is hereby made a part hereof.

(iii) Not Applicable

(iv) The Line's right-of-way may be suitable for alternative public use by the City of Henderson for road purposes. The property will be offered, on reasonable terms, for sale for this public purpose to the City of Henderson

(4) Energy.

(i) Describe the effect of the proposed action on transportation of energy resources.

(ii) Describe the effect of the proposed action on recyclable commodities.

(iii) State whether the proposed action will result in an increase or decrease in overall energy efficiency and explain why.

(iv) If the proposed action will cause diversions from rail to motor carriage of more than:

(A) 1,000 rail carloads a year, or

(B) an average of 50 rail carloads per mile per year for any part of the affected line, quantify the resulting net change in energy consumption and show the data and methodology used to arrive at the figure given.

Response.

(i) The abandonment will have no impact on the transportation of energy resources.

(ii) The abandonment will not affect the transportation of recyclable commodities

(iii) The proposed action will not result in an increase or decrease in overall energy efficiency.

(iv) The proposed action will not result in any diversion from rail to motor carriage.

(5) Air (i).

(i) If the proposed action will result in either:

(A) an increase in rail traffic of at least 100% (measured in gross ton miles annually) or an increase of at least eight trains a day on any segment of rail line affected by the proposal, or

(B) an increase in rail yard activity of at least 100% (measured by carload activity), or

(C) an average increase in truck traffic of more than 10% of the average daily traffic or 50 vehicles a day on any affected road segment, quantify the anticipated effect on air emissions. For a proposal under 49 U.S.C. 10901 (or 10502) to construct a new line or reinstitute service over a previously abandoned line, only the eight train a day provision in subsection (5)(i)(A) will apply.

Response:

(i)(A-C) There is no significant adverse impact on these action items as a result of the proposed abandonment.

(5) Air (ii).

(ii) If the proposed action affects a class 1 or nonattainment area under the Clean Air Act, and will result in either.

(A) an increase in rail traffic of at least 50% (measured in gross ton miles annually) or an increase of at least three trains a day on any segment of rail line, or

(B) an increase in rail yard activity of at least 20% (measured by carload activity), or

(C) an average increase in truck traffic of more than 10% of the average daily traffic or 50 vehicles a day on a given road segment, then state whether any expected increased emissions are within the parameters established by the State Implementation Plan. However, for a rail construction under 49 U.S.C. 10901 (or 49 U.S.C. 10505), or a case involving the reinstitution of service over a previously abandoned line, only the three train a day threshold in this item shall apply.

Response:

(ii)(A-C) There is no significant adverse impact on these action items as a result of the proposed abandonment.

(6) Noise

If any of the thresholds identified in item (5)(i) of this section are surpassed, state whether the proposed action will cause:

(i) an incremental increase in noise levels of three decibels Ldn or more or

Rusk County Rural Rail District
Combined Environmental and Historic Report
STB Docket No. AB-1103X

(ii) an increase to a noise level of 65 decibels Ldn or greater. If so, identify sensitive receptors (e.g., schools, libraries, hospitals, residences, retirement communities, and nursing homes) in the project area and quantify the noise increase for these receptors if the thresholds are surpassed.

Response: There is no significant adverse impact on these action items as a result of the proposed abandonment.

(7) Safety.

(i) Describe any effects of the proposed action on public health and safety (including vehicle delay time at railroad grade crossings)

(ii) If hazardous materials are expected to be transported, identify: the materials and quantity; the frequency of service; whether chemicals are being transported that, if mixed, could react to form more hazardous compounds; safety practices (including any speed restrictions); the applicant's safety record (to the extent available) on derailments, accidents and hazardous spills; the contingency plans to deal with accidental spills; and the likelihood of an accidental release of hazardous materials.

(iii) If there are any known hazardous waste sites or sites where there have been known hazardous materials spills on the right-of-way, identify the location of those sites and the types of hazardous materials involved.

Response. The proposed action would remove a highway rail crossing, thereby removing any potential safety hazard which may currently exist. The proposed action will have no adverse impact on public health and safety, there are no hazardous materials expected to be transported, and there are no known hazardous waste sites or sites with known hazardous material spills on the right-of-way.

(8) Biological resources.

(i) Based on consultation with the U.S. Fish and Wildlife Department, state whether the proposed action is likely to adversely affect endangered or threatened species or areas designated as a critical habitat, and if so, describe the effects.

(ii) State whether wildlife sanctuaries or refuges, National or State parks or forests will be affected, and describe any effects.

Response:

(i) The Texas Parks & Wildlife Department has reviewed the proposed abandonment and does not anticipate significant adverse impacts to rare, threatened or endangered species or other fish and wildlife resources. The Texas Parks & Wildlife Department's response, dated May 21, 2012, is attached as **Attachment No. 4** and is hereby made a part hereof.

The RCRRD contacted the U.S. Fish and Wildlife Department regarding the proposed abandonment by letter dated, May 1, 2012 (see Attachment No. 2) and has received no response to date.

(ii) No wildlife sanctuaries or refuges, National or State parks or forests will be affected as a result of the proposed abandonment.

(9) Water.

(i) Based on consultation with State water quality officials, state whether the proposed action is consistent with applicable Federal, State or local water quality standards. Describe any inconsistencies.

(ii) Based on consultation with the U.S. Army Corps of Engineers, state whether permits under section 404 of the Clean Water Act (33 U.S.C. § 1344) are required for the proposed action and whether any designated wetlands or 100-year flood plains will be affected. Describe the effects.

(iii) State whether permits under section 402 of the Clean Water Act (33 U.S.C. § 1342) are required for the proposed action. (Applicants should contact the U.S. Environmental Protection Agency or the state environmental protection or equivalent agency if they are unsure whether such permits are required.)

Response:

(i) The U.S. Natural Resources Conservation Service has reviewed the proposed abandonment and has not indicated any concerns regarding water quality standards (see Attachment No. 3).

(ii) The RCRRD contacted the U.S. Army Corps of Engineers by letter dated May 1, 2012 (see Attachment No. 2). To date the RCRRD has received no response.

(iii) The RCRRD contacted Texas Commission on Environmental Quality by letter dated May 1, 2012 (see Attachment No. 2). To date the RCRRD has received no response.

Describe any actions that are proposed to mitigate adverse environmental impacts, indicating why the proposed mitigation is appropriate.

Response: There are no known adverse environmental impacts

HISTORIC REPORT
49 C.F.R. § 1105.8(d)

(1) A U.S.G.S. topographic map (or an alternate map drawn to scale and sufficiently detailed to show buildings and other structures in the vicinity of the proposed action) showing the location of the proposed action, and the locations and approximate dimensions of railroad structures that are 50 years old or older and are part of the proposed action:

Response: See Attachment No. 1

(2) A written description of the right-of-way (including approximate widths to the extent known), and the topography and urban and/or rural characteristics of the surrounding area.

Response: The width of the rail corridor is approximately 100 feet. The Line is located in the downtown residential district of a city with a population of approximately 13,700. It is a zero grade section.

(3) Good quality photographs (actual photographic prints, not photocopies) of railroad structures on the property that are 50 years old or older and of the immediately surrounding area:

Response: The location of the proposed abandonment does not include any railroad structures on the property that are 50 years old or older. Photographs of the immediately surrounding area are attached as Attachment No. 6 and is hereby made a part hereof

(4) The date(s) of construction of the structure(s), and the date(s) and extent of any major alterations to the extent such information is known:

Response: Not applicable

(5) A brief narrative history of carrier operations in the area, and an explanation of what, if any, changes are contemplated as a result of the proposed action:

Response: See the preceding pages for a brief history and description of carrier operations.

(6) A brief summary of documents in the carrier's possession, such as engineering drawings, that might be useful in documenting a structure that is found to be historic:

Response: Not applicable.

(7) An opinion (based on readily available information in the railroad's possession) as to whether the site and/or structures meet the criteria for listing on the National Register of Historic Places (36 CFR §60.4), and whether there is a likelihood of archeological resources or any other previously unknown historic properties in the project area, and the basis for these opinions (including any consultations with the State Historic Preservation Office, local historical societies or universities):

Rusk County Rural Rail District
Combined Environmental and Historic Report
STB Docket No. AB-1103X

Response: The History Programs Division of the Texas Historical Commission has reviewed the proposed abandonment, which was coordinated through email and telephone correspondence. The Texas Historical Commission reviewed the matter in 2008 when UP abandoned the Line prior to its purchase by the RCRRD and determined that the project could proceed. As shown in Attachment No. 5, the Texas Historical Commission has stated that the site and/or structures are not eligible for listing on the National Register of Historic Places and that they do not require any further coordination on this proposed abandonment.

(8) A description (based on readily available information in the railroad's possession) of any known prior subsurface ground disturbance or fill, environmental conditions (naturally occurring or manmade) that might affect the archeological recovery of resources (such as swampy conditions or the presence of toxic wastes), and the surrounding terrain:


Response: Not applicable.

(9) Within 30 days of receipt of the historic report, the State Historic Preservation Officer may request the following additional information regarding specified non-railroad owned properties or group of properties immediately adjacent to the railroad right-of-way. Photographs of specified properties that can be readily seen from the railroad right-of-way (or other public rights-of-way adjacent to the property) and a written description of any previously discovered archeological sites, identifying the locations and type of the site (i.e., prehistoric or native American):

Response: Not applicable.

Dated this 28th day of September, 2012.

Respectfully submitted,


C. Brian Cassidy
State Bar No. 03978880
Locke Lord LLP
100 Congress Ave., Suite 300
Austin, Texas 78701
(512) 305-4700
(512) 305-4800 (Facsimile)

Counsel for the Rusk County Rural Rail District

Certificate of Service

The undersigned hereby certifies that a copy of the foregoing Combined Environmental and Historical Report for the RCRRD's Henderson-Overton Branch Spur in Rusk County, Texas and an associated transmittal letter (Attachment No. 7) was served by first class mail on the 26th day of June, 2012 on the following parties:

<p><u>State Clearinghouse (or alternate):</u> Jonathan Hurst Governor's Office of Budget and Planning P.O. Box 12428 Austin, Texas 78711</p> <p>James Randall Director of Transportation, Planning and Programming Texas Department of Transportation 118 East Riverside Plaza Austin, Texas 78704</p>	<p><u>U.S. Army Corps of Engineers:</u> U.S. Army Engineer District Fort Worth Benbrook Lake Project Office P.O. Box 26619 Fort Worth, Texas 76126-0619</p> <p><u>National Park Service.</u> National Park Service Intermountain Region 12795 Alameda Pkwy Denver, CO 80228</p>
<p><u>State Environmental Protection Agency</u> Texas Commission on Environmental Quality Region 5, Tyler Office Leroy Biggers, Regional Director 2916 Teague Dr. Tyler, TX 75701-3734</p>	<p><u>U.S. Natural Resources Conservation Service.</u> USDA. Natural Resources Conservation Service Soil Survey Section W R Poage Federal Bldg. 101 South Main Street Temple, Texas 76501-7682</p>
<p><u>State Coastal Zone Management Agency (if applicable):</u> Not applicable.</p> <p><u>Head of County (Planning):</u> Rusk County Commissioners 115 North Main Street County Courthouse Henderson, Texas 75652-3147</p>	<p><u>National Geodetic Survey:</u> National Geodetic Survey Edward J. McKay, Chief Spatial Reference System Division NOAA N/NGS2 1315 E-W Highway Silver Springs, MD 20910-3282</p>
<p><u>Environmental Protection Agency (regional office).</u> U.S. Environmental Protection Agency Region 6 1445 Ross Avenue Dallas, Texas 75202-2733</p>	<p><u>State Historic Preservation Office:</u> Texas Historical Commission Linda Henderson Historian, Federal Programs History Programs Division P.O. Box 12276 Austin, Texas 78711-2276</p>

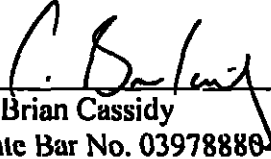
Rusk County Rural Rail District
Combined Environmental and Historic Report
STB Docket No. AB-1103X

U.S. Fish and Wildlife

U.S. Fish & Wildlife Service
Southwest Region 2
U.S. Fish and Wildlife Service
500 Gold Avenue SW – Room 4000
Albuquerque, NM 87102

Other Agencies Consulted:

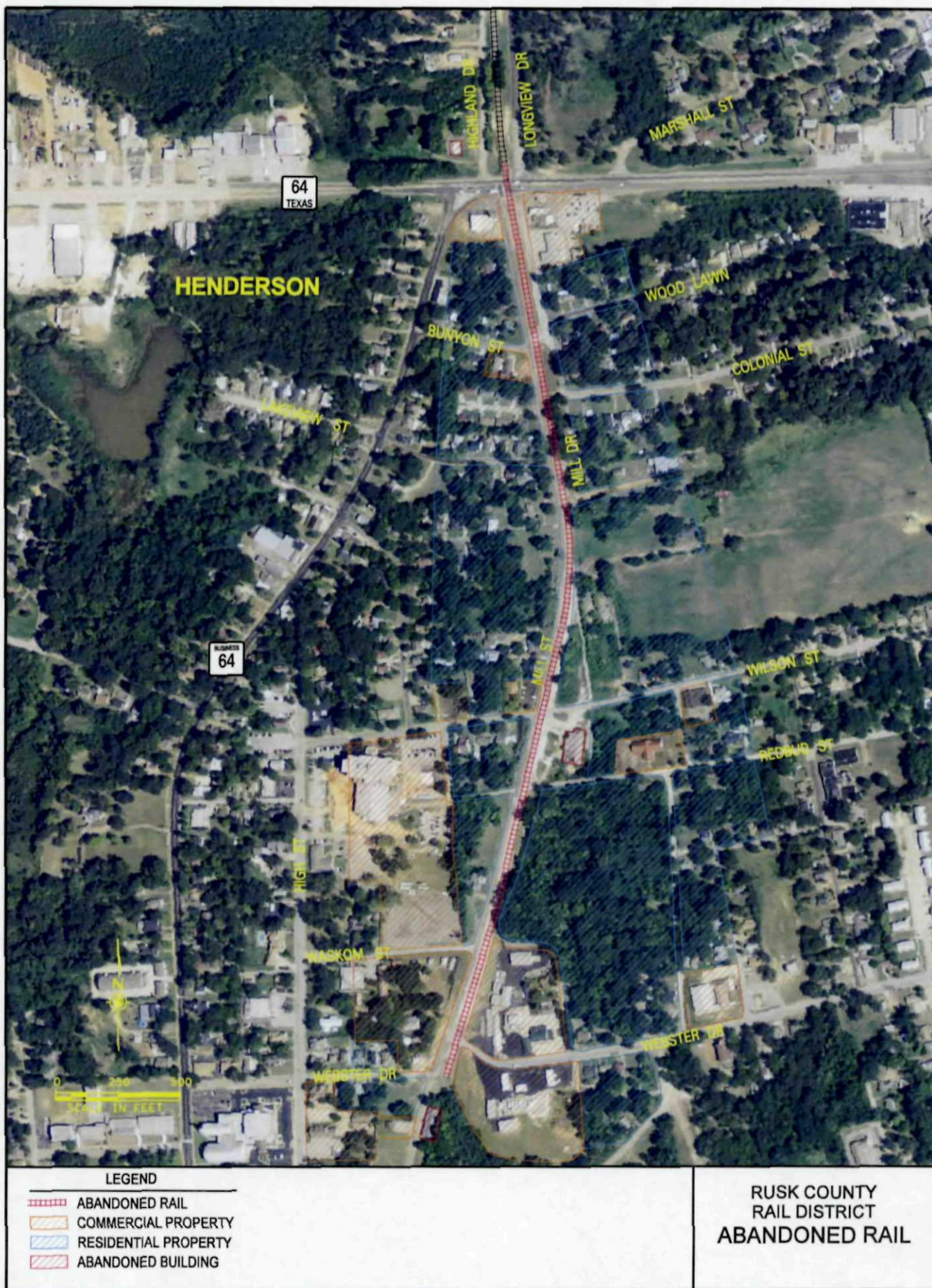
Texas Parks & Wildlife
Carter Smith
4200 Smith School Road
Austin, Texas 78744-3291


C. Brian Cassidy
State Bar No. 03978886
Locke Lord LLP
100 Congress Ave , Suite 300
Austin, Texas 78701
(512) 305-4700
(512) 305-4800 (Facsimile)

Counsel for the Rusk County Rural Rail District

Attachment No. 1
Map of Proposed Abandonment

Rusk County Rural Rail District
Combined Environmental and Historic Report
STB Docket No. AB-1103X



Attachment No. 2
The RCRRD's letters to federal, state and local government agencies

A record of the
Rural Rail District

RUSK COUNTY

RURAL RAIL DISTRICT

TRACKING TO THE FUTURE

John Cloutier
President

Sue Henderson
Vice President

Scott Andrews
Treasurer

Ricki Keeling
Board Member

Dwayne Milley
Board Member

Jack Turner
Board Member

May 1, 2012

USDA, Natural Resources Conservation Service
Soil Survey Section
WRPoage Federal Bldg.
101 South Main Street
Temple, TX 76501-7682

RE: Rusk County Rural Rail District Rail Line Abandonment Request

Dear Sir/Madam:

The Rusk County Rural Rail District ("RCRRD") plans to request authority from the Surface Transportation Board ("STB") to abandon a portion of its Henderson-Overton Branch Spur from Milepost 15.2 to Milepost 16.1, a distance of 9 miles in Rusk County, Texas. A map of the proposed track abandonment is attached.

Pursuant to the STB's regulations at 49 C.F.R. Part 1152, and the environmental regulations at 49 C.F.R. Part 1105.7, this letter is to request your assistance in identifying any potential effects of the abandonment. Specifically, I am requesting your assistance in identifying the effect of the proposed abandonment on any prime agricultural land (*Id.* § 1105.7(e)(3)(ii)) and whether the proposed action is consistent with applicable Federal, State or local water quality standards, including a description of any inconsistencies you may identify (*Id.* § 1105.7(e)(9)(i)).

We do not anticipate any adverse environmental impacts. However, if you identify any adverse environmental impacts, describe any actions that are proposed in order to mitigate the environmental impacts. Please provide a written response that can be included in an Environmental Report, which will be sent to the STB.

400 West Main Henderson, Texas 75652
Email: info@ruskcountyrail.org


www.ruskcountyrail.org

Phone 903-657-9146 Ext. 700
Fax 903-655-1296

U.S. Natural Resources Conservation
Service
May 1, 2012
Page 2

Thank you for your assistance. Please send your reply to the address above. If you require further information or have any questions, please contact me at the number shown above.

Sincerely,



John Cloutier

cc: Lori F Winland
Locke Lord LLP

RUSK COUNTY

RURAL RAIL DISTRICT

PREPARED TO THE RAILROADS

May 1, 2012

John Cloutier
President

City of Longview
Metropolitan Planning Organization
P.O. Box 1952
Longview TX 75606-1952

1303
2012
7-130

Sue Henderson
Vice President

RE Rusk County Rural Rail District Rail Line Abandonment Request

Dear Sir/Madam.

Scott Andrews
Treasurer

The Rusk County Rural Rail District ("RCRRD") plans to request authority from the Surface Transportation Board ("STB") to abandon a portion of its Henderson-Overton Branch Spur from Milepost 15.2 to Milepost 16.1 a distance of .9 miles in Rusk County, Texas. A map of the proposed track abandonment is attached.

Rick Keeling
Board Member

Pursuant to the STB's regulations at 49 C.F.R. Part 1152, and the environmental regulations at 49 C.F.R. Part 1105.7, this letter is to request your assistance in identifying any potential effects of the abandonment. Specifically, I am requesting your assistance in identifying whether the proposed abandonment is likely to adversely affect endangered or threatened species or areas designated as a critical habitat, and if so, to describe the effects (49 C.F.R. Part 1105.7(e)(8)(i)).

Dwayne Milley
Board Member

We do not anticipate any adverse environmental impacts. However, if you identify any adverse environmental impacts, describe any actions that are proposed in order to mitigate the environmental impacts. Please provide us with a written response that can be included in an Environmental Report, which will be sent to the STB.

Jack Turner
Board Member

Thank you for your assistance. Please send your reply to the address above. If you require further information or have any questions, please contact me at the number shown above.

Sincerely,

John Cloutier

cc: Lori F Winland
Locke Lord LLP

400 West Main Henderson, Texas 75652
Email: info@ruskcountyrail.org

Phone 903-657-9146 Ext. 700
Fax 903-655-1296

www.ruskcountyrail.org

RUSK COUNTY

RURAL RAIL DISTRICT

PLANNING TO THE FUTURE

May 1, 2012

John Cloutier
President

City of Tyler
Metropolitan Planning Organization
P O. Box 2039
Tyler TX 75710-2039

Sue Henderson
Vice President

RE Rusk County Rural Rail District Rail Line Abandonment Request

Dear Sir/Madam.

Scott Andrews
Treasurer

The Rusk County Rural Rail District ("RCRRD") plans to request authority from the Surface Transportation Board ("STB") to abandon a portion of its Henderson-Overtown Branch Spur from Milepost 15.2 to Milepost 16.1, a distance of 9 miles in Rusk County, Texas. A map of the proposed track abandonment is attached.

Ricki Keeling
Board Member

Pursuant to the STB's regulations at 49 C.F.R. Part 1152, and the environmental regulations at 49 C.F.R. Part 1105.7, this letter is to request your assistance in identifying any potential effects of the abandonment. Specifically, I am requesting your assistance in identifying whether the proposed abandonment is likely to adversely affect endangered or threatened species or areas designated as a critical habitat, and if so, to describe the effects (49 C.F.R. Part 1105.7(e)(8)(i)).

Dwayne Milley
Board Member

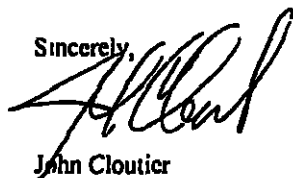
We do not anticipate any adverse environmental impacts. However, if you identify any adverse environmental impacts, describe any actions that are proposed in order to mitigate the environmental impacts. Please provide us with a written response that can be included in an Environmental Report, which will be sent to the STB.

Kelly Sparks
Board Member

Thank you for your assistance. Please send your reply to the address above. If you require further information or have any questions, please contact me at the number shown above.

Jack Turner
Board Member

Sincerely,



John Cloutier

cc: Lori F. Wmland
Locke Lord LLP

400 West Main Henderson, Texas 75652
Email: info@ruskcountyrail.org

Phone 903-657-9146 Ext. 700
Fax 903-655-1296

www.ruskcountyrail.org

A mailing label is provided on the back of this envelope.

RUSK COUNTY

RURAL RAIL DISTRICT

TRACKING TO THE FUTURE

John Cloutier
President

Sue Henderson
Vice President

Scott Andrews
Treasurer

Rick Keeling
Board Member

Dwayne Miley
Board Member

Jack Turner
Board Member

May 1, 2012

Texas Parks & Wildlife Department
Carter Smith, Executive Director
4200 Smith School Road
Austin, TX 78744-3291

RE: Rusk County Rural Rail District Rail Line Abandonment Request

Dear Mr. Smith:

The Rusk County Rural Rail District ("RCRRD") plans to request authority from the Surface Transportation Board ("STB") to abandon a portion of its Henderson-Overton Branch Spur from Milepost 15.2 to Milepost 16.1, a distance of .9 miles in Rusk County, Texas. A map of the proposed track abandonment is attached.

Pursuant to the STB's regulations at 49 C.F.R. Part 1152, and the environmental regulations at 49 C.F.R. Part 1105.7, this letter is to request your assistance in identifying any potential effects of the abandonment. Specifically, I am requesting your assistance in identifying whether the proposed abandonment is likely to adversely affect endangered or threatened species or areas designated as a critical habitat, and if so, to describe the effects (49 C.F.R. Part 1105.7(e)(8)(i)).

We do not anticipate any adverse environmental impacts. However, if you identify any adverse environmental impacts, describe any actions that are proposed in order to mitigate the environmental impacts. Please provide us with a written response that can be included in an Environmental Report, which will be sent to the STB.

Thank you for your assistance. Please send your reply to the address above. If you require further information or have any questions, please contact me at the number shown above.

Sincerely,


John Cloutier

cc: Lori F Winland
Locke Lord LLP

400 West Main Henderson, Texas 75652
Email: info@ruskcountyrail.org

Phone 903-657-9146 Ext. 700
Fax 903-655-1296

www.ruskcountyrail.org

RUSK COUNTY

RURAL RAIL DISTRICT

TRACKING TO THE FUTURE

Important Reminders:
• Certified Mail may
be used for your
mail.
• Please keep your
mail in the
mailbox.

John Cloutier
President

Sue Henderson
Vice President

Scott Andrews
Treasurer

Rick Keeling
Board Member

Dwayne Miley
Board Member

Kelly Sparks
Board Member

Jack Turner
Board Member

May 1, 2012

U.S. Fish and Wildlife Service,
Southwest Region 2
U.S. Fish and Wildlife Service
500 Gold Avenue SW - Room 4000
Albuquerque, NM 87102

RE: Rusk County Rural Rail District Rail Line Abandonment Request

Dear Sir/Madam:

The Rusk County Rural Rail District ("RCRRD") plans to request authority from the Surface Transportation Board ("STB") to abandon a portion of its Henderson-Overton Branch Spur from Milepost 15.2 to Milepost 16.1, a distance of .9 miles in Rusk County, Texas. A map of the proposed track abandonment is attached.

Pursuant to the STB's regulations at 49 C.F.R. Part 1152, and the environmental regulations at 49 C.F.R. Part 1105.7, this letter is to request your assistance in identifying any potential effects of the abandonment. Specifically, I am requesting your assistance in identifying whether the proposed abandonment is likely to adversely affect endangered or threatened species or areas designated as a critical habitat, and if so, to describe the effects (49 C.F.R. Part 1105.7(c)(8)(i)).

We do not anticipate any adverse environmental impacts. However, if you identify any adverse environmental impacts, describe any actions that are proposed in order to mitigate the environmental impacts. Please provide a written response that can be included in an Environmental Report, which will be sent to the STB.


400 West Main, Henderson, Texas 75652
Email: info@ruskcountyrail.org

www.ruskcountyrail.org

Phone 903-657-9146 Ext. 700
Fax 903-655-1296

Thank you for your assistance. Please send your reply to the address above. If you require further information or have any questions, please contact me at the number shown above.

Sincerely,



John Cloutier

cc: Lori F. Winland
Locke Lord LLP

To receive a record of this meeting, please contact the Rusk County Rural Rail District.

RUSK COUNTY

RURAL RAIL DISTRICT

TRACKING TO THE FUTURE...

May 1, 2012

John Cloutier
President

Sue Henderson
Vice President

Scott Andrews
Treasurer

Ricki Keeling
Board Member

Dwayne Miley
Board Member

Jack Turner
Board Member

U.S. Army Corps of Engineers
U.S. Army Engineer District Fort Worth
Benbrook Lake Project Office
P O. Box 26619
Fort Worth, Texas 76126-0619

RE: Rusk County Rural Rail District Rail Line Abandonment
Request

Dear Sir/Madame:

The Rusk County Rural Rail District ("RCRRD") plans to request authority from the Surface Transportation Board ("STB") to abandon a portion of its Henderson-Overton Branch Spur from Milepost 15.2 to Milepost 16.1, a distance of .9 miles in Rusk County, Texas. A map of the proposed track abandonment is attached.

Pursuant to the STB's regulations at 49 C.F.R. Part 1152, and the environmental regulations at 49 C.F.R. Part 1105.7, this letter is to request your assistance in identifying any potential effects of the abandonment. Specifically, I am requesting your assistance in identifying whether permits under section 404 of the Clean Water Act (33 U.S.C. 1344) are required for the proposed abandonment and whether any designated wetlands or 100-year flood plains will be affected, with a description of the effects (49 C.F.R. Part 1105.7(e)(9)(ii)).

We do not anticipate any adverse environmental impacts. However, if you identify any adverse environmental impacts, describe any actions that are proposed in order to mitigate the environmental impacts. Please provide us with a written response that can be included in an Environmental Report, which will be sent to the STB.

400 West Main Henderson, Texas 75652
Email: Info@ruskcountyrail.org

Phone 903-657-9146 Ext. 700
Fax 903-655-1296

www.ruskcountyrail.org

Thank you for your assistance. Please send your reply to the address above. If you require further information or have any questions, please contact me at the number shown above.

Sincerely,

A handwritten signature in black ink, appearing to read 'John Cloutier', written over the word 'Sincerely,'.

John Cloutier

cc: Lori F. Winland
Locke Lord LLP

RUSK COUNTY

RURAL RAIL DISTRICT

TRACKING TO THE FUTURE

John Cloutier
President

Sue Henderson
Vice President

Scott Andrews
Treasurer

Ricki Keeling
Board Member

Dwayne Milley
Board Member

Jack Turner
Board Member

May 1, 2012

Texas Commission on Environmental Quality
Region 5, Tyler Office
Leroy Biggers, Regional Director
2916 Teague Dr
Tyler, TX 75701-3734

RE: Rusk County Rural Rail District Rail Line Abandonment Request

Dear Mr. Biggers:

The Rusk County Rural Rail District ("RCRRD") plans to request authority from the Surface Transportation Board ("STB") to abandon a portion of its Henderson-Overton Branch Spur from Milepost 15.2 to Milepost 16.1, a distance of .9 miles in Rusk County, Texas. A map of the proposed track abandonment is attached.

Pursuant to the STB's regulations at 49 C.F.R. Part 1152, and the environmental regulations at 49 C.F.R. Part 1105.7, this letter is to request your assistance in identifying any potential effects of the abandonment. Specifically, I am requesting your assistance in identifying whether permits under section 402 of the Clean Water Act (33 U.S.C. 1342) are required for the proposed abandonment (49 C.F.R. Part 1105.7(e)(9)(iii)).

We do not anticipate any adverse environmental impacts. However, if you identify any adverse environmental impacts, describe any actions that are proposed in order to mitigate the environmental impacts. Please provide us with a written response that can be included in an Environmental Report, which will be sent to the STB.

400 West Main Henderson, Texas 75652
Email: info@ruskcountyrail.org

Phone 903-657-9146 Ext 700
Fax 903-655-1296

www.ruskcountyrail.org

OCT 1 2012

✓

Thank you for your assistance. Please send your reply to the address above. If you require further information or have any questions, please contact me at the number shown above.

Sincerely,



John Cloutier

cc: Lori F. Winland
Locke Lord LLP



OCT 1 2012

John Cloutier
President

Sue Henderson
Vice President

Scott Andrews
Treasurer

Ricki Keeling
Board Member

Dwayne Miley
Board Member

Jack Turner
Board Member

May 1, 2012

Texas Historical Commission
James W Stealy
History Program Division
P O. Box 12276
Austin TX 78711-2276

RE: Rusk County Rural Rail District Rail Line Abandonment Request

Dear Sir/Madame:

The Rusk County Rural Rail District ("RCRRD") plans to request authority from the Surface Transportation Board ("STB") to abandon a portion of its Henderson-Overton Branch Spur from Milepost 15.2 to Milepost 16.1, a distance of .9 miles in Rusk County, Texas. A map of the proposed track abandonment is attached.

Pursuant to the STB's regulations at 49 C.F.R. Part 1152, and the environmental regulations at 49 C.F.R. Part 1105.7, this letter is to request your assistance in identifying any potential effects of the abandonment. Specifically, I am requesting your assistance in identifying whether permits under section 404 of the Clean Water Act (33 U.S.C. 1344) are required for the proposed abandonment and whether any designated wetlands or 100-year flood plains will be affected, with a description of the effects (49 C.F.R. Part 1105.7(c)(9)(ii)).

We do not anticipate any adverse environmental impacts. However, if you identify any adverse environmental impacts, describe any actions that are proposed in order to mitigate the environmental impacts. Please provide us with a written response that can be included in an Environmental Report, which will be sent to the STB.

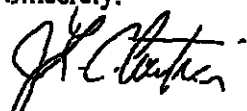
400 West Main Henderson, Texas 75652
Email: info@ruskcountyrail.org

Phone 903-657-9146 Ext 700
Fax 903-655-1296

www.ruskcountyrail.org

Thank you for your assistance. Please send your reply to the address above. If you require further information or have any questions, please contact me at the number shown above.

Sincerely,

A handwritten signature in black ink, appearing to read "John Cloutier". The signature is stylized with a large initial "J" and a cursive "C".

John Cloutier

cc: Lori F. Winland
Locke Lord LLP

Attachment No. 3
United States Natural Resources Conservation Service Response Letter

Rusk County Rural Rail District
Combined Environmental and Historic Report
STB Docket No AB-1103X

United States Department of Agriculture



Natural Resources Conservation Service

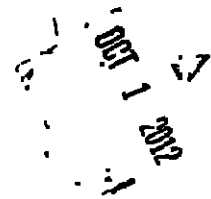
101 S. Main Street
Temple, TX 76501-6624
Phone: 254-742-9826
FAX: 254-742-9859

May 8, 2012

Rusk County Rural Rail District
400 West Main
Henderson, Texas 75652

Attention: John Cloutier

Subject: LNU-Farmland Protection
Proposed Rail Line Abandonment
Rusk County, Texas



We have reviewed the information provided in your correspondence dated May 1, 2012 concerning the proposed rail line abandonment in Rusk County, Texas. This review is part of the National Environmental Policy Act (NEPA) evaluation for Surface Transportation Board. We have evaluated the proposed site as required by the Farmland Protection Policy Act (FPPA).

The proposed project may contain Important Farmland Soils, however, we do not normally consider the rail line abandonment on an existing railroad a conversion of Important Farmland. We have completed a Farmland Conversion Impact Rating (form AD-1006) indicating the exemption. We urge you to use accepted erosion control methods during construction.

If you have any questions, please contact me at (254) 742-9855, Fax (254) 742-9859 or by email at wayne.gabriel@tx.usda.gov

Sincerely,

Wayne Gabriel
NRCS Soil Scientist

Attachment

U.S. Department of Agriculture
FARMLAND CONVERSION IMPACT RATING

PART I (To be completed by Federal Agency)		Date Of Land Evaluation Request May 1, 2012			
Name of Project Rail Line Abandonment		Federal Agency Involved Surface Transportation Board			
Proposed Land Use		County and State Rusk County TX			
PART II (To be completed by NRCS)		Date Request Received By NRCS May 2, 2012			
Does the site contain prime, unique, statewide or local important farmland? (If no, the FPPA does not apply - do not complete additional parts of this form)		YES <input type="checkbox"/>	NO <input checked="" type="checkbox"/>	Acres Irrigated	Average Farm Size
Major Crop(s)	Farmable Land In Govt. Jurisdiction Acres %	Amount of Farmland As Defined in FPPA Acres %			
Name of Land Evaluation System Used	Name of State or Local Site Assessment System	Date Land Evaluation Returned by NRCS 5/8/10			
PART III (To be completed by Federal Agency)		Alternative Site Rating			
		Site A	Site B	Site C	Site D
A. Total Acres To Be Converted Directly					
B. Total Acres To Be Converted Indirectly					
C. Total Acres In Site					
PART IV (To be completed by NRCS) Land Evaluation Information					
A. Total Acres Prime And Unique Farmland					
B. Total Acres Statewide Important or Local Important Farmland					
C. Percentage Of Farmland In County Or Local Govt. Unit To Be Converted					
D. Percentage Of Farmland In Govt. Jurisdiction With Same Or Higher Relative Value					
PART V (To be completed by NRCS) Land Evaluation Criterion Relative Value of Farmland To Be Converted (Scale of 0 to 100 Points)					
PART VI (To be completed by Federal Agency) Site Assessment Criteria (Criteria are explained in 7 CFR 658.5 b. For Corridor project use form NRCS-CPA-106)		Maximum Points	Site A	Site B	Site C
1. Area In Non-urban Use		(15)			
2. Perimeter In Non-urban Use		(10)			
3. Percent Of Site Being Farmed		(20)			
4. Protection Provided By State and Local Government		(20)			
5. Distance From Urban Built-up Area		(15)			
6. Distance To Urban Support Services		(15)			
7. Size Of Present Farm Unit Compared To Average		(10)			
8. Creation Of Non-farmable Farmland		(10)			
9. Availability Of Farm Support Services		(5)			
10. On-Farm Investments		(20)			
11. Effects Of Conversion On Farm Support Services		(10)			
12. Compatibility With Existing Agricultural Use		(10)			
TOTAL SITE ASSESSMENT POINTS		160			
PART VII (To be completed by Federal Agency)					
Relative Value Of Farmland (From Part V)		100			
Total Site Assessment (From Part VI above or local site assessment)		160			
TOTAL POINTS (Total of above 2 lines)		260			
Site Selected	Date Of Selection	Was A Local Site Assessment Used? YES <input type="checkbox"/> NO <input type="checkbox"/>			
Reason For Selection:					

Name of Federal agency representative completing this form:
(See instructions on reverse side)

Date:

Form AD-1006 (03-02)

Attachment No. 4
Texas Parks & Wildlife Department Response Letter

Rusk County Rural Rail District
Combined Environmental and Historic Report
STB Docket No AB-1103X

RUSK COUNTY

RURAL RAIL DISTRICT

TRACKING TO THE FUTURE...

Texas Parks & Wildlife Dept.

MAY - 4 2012

Wildlife Habitat Assessment Program

John Cloutier
President

Sue Henderson
Vice President

Scott Andrews
Treasurer

Ricki Keeling
Board Member

Dwayne Miley
Board Member

Jack Turner
Board Member

May 1, 2012

Texas Parks & Wildlife Department
Carter Smith, Executive Director
4200 Smith School Road
Austin, TX 78744-3291

RE: Rusk County Rural Rail District Rail Line Abandonment Request

Dear Mr. Smith:


The Rusk County Rural Rail District ("RCRRD") plans to request authority from the Surface Transportation Board ("STB") to abandon a portion of its Henderson-Overton Branch Spur from Milepost 15.2 to Milepost 16.1, a distance of .9 miles in Rusk County, Texas. A map of the proposed track abandonment is attached.

Pursuant to the STB's regulations at 49 C.F.R. Part 1152, and the environmental regulations at 49 C.F.R. Part 1105.7, this letter is to request your assistance in identifying any potential effects of the abandonment. Specifically, I am requesting your assistance in identifying whether the proposed abandonment is likely to adversely affect endangered or threatened species or areas designated as a critical habitat, and if so, to describe the effects (49 C.F.R. Part 1105.7(e)(8)(i)).

We do not anticipate any adverse environmental impacts. However, if you identify any adverse environmental impacts, describe any actions that are proposed in order to mitigate the environmental impacts. Please provide us with a written response that can be included in an Environmental Report, which will be sent to the STB.

Thank you for your assistance. Please send your reply to the address above. If you require further information or have any questions, please contact me at the number shown above.

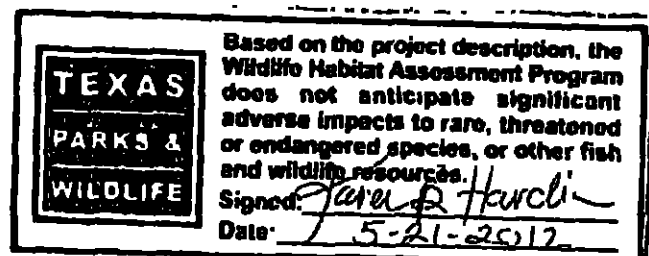
Sincerely,


John Cloutier

cc: Lori F. Winland
Locke Lord LLP

400 West Main, Henderson, Texas 75652
Email: info@ruskcountyrail.org

www.ruskcountyrail.org



TPWD Project #6PCS-707

Phone 903-657-9146 Ext. 700
Fax 903-655-1296

Attachment No. 5
Texas Historical Commission Response Letter

Rusk County Rural Rail District
Combined Environmental and Historic Report
STB Docket No AB-1103X

O'Reilly, Brian

From: Linda Henderson <Linda.Henderson@thc.state.tx.us>
Sent: Thursday, June 28, 2012 5:03 PM
To: O'Reilly, Brian
Subject: RE: SHPO review
Attachments: DOC001.pdf

And I'm sorry I forgot the attachment. Here it is.

Linda Henderson
phone 512/463-5851

From: Linda Henderson
Sent: Thursday, June 28, 2012 5:02 PM
To: 'O'Reilly, Brian'
Subject: RE: SHPO review

Brian,

Attached is our response from 2008. Unfortunately, you can't read the stamp that says "Not Eligible. Project May Proceed," but our database and the codes written on our tracking sheet indicate the "Not Eligible" response. So we do not need any further coordination on this project

Thank you,

Linda

Linda Henderson
Historian, Federal Programs
History Programs Division
Texas Historical Commission
P O Box 12276
Austin, Texas 78711-2276
phone: 512/463-5851
www.thc.state.tx.us



TEXAS HISTORICAL COMMISSION
real places telling real stories



Law Department

October 2, 2008

Texas Historical Commission
~~James W. Steer~~
History Program Division
P. O. Box 12276
Austin, TX 78711-2276

Dallas

10/29/08

Re: Proposed abandonment of the Henderson Industrial Lead from M. P. 0.59 near Overton to M. P. 16.28 near Henderson, Rusk County, Texas; STB Docket No. AB-33 (Sub-No. 275)

Dear Sir,

Enclosed for your review are twenty photographs of the bridges located on the Henderson Industrial Lead which are over 50 years old. The bridges are described as follows:

<u>Milepost</u>	<u>Description</u>	<u>Length</u>	<u>Year Constructed</u>
0.85	3 Span I-Beam	61'	1937
6 0	2 Span Rail Girder	22'	1927
6 9	3 Span Through Plate Trestle Ballast Deck (TPTBD)	41'	1929
7.2	1 Span Rail Girder	11'	1929
7.8	3 Span Rail Timber Pile Trestle Ballast Deck (TPTBD)	41'	1929
9.7	3 Span Rail Timber Pile Trestle Ballast Deck (TPTBD)	41'	1929
10 2	4 Span Rail Timber Pile Trestle Ballast Deck (TPTBD)	54'	1925
10 5	2 Span Rail Timber Pile Trestle Ballast Deck (TPTBD)	28'	1917
10 7	4 Span Rail Timber Pile Trestle Ballast Deck (TPTBD)	52'	1929

11 .4

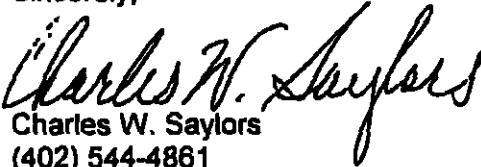
4 Span Rail Timber Pile Trestle 54'
Ballast Deck (TPTBD)

1916

Finally, a map of the proposed abandonment and discontinuance is also enclosed for your reference

Please advise if you believe there is historical significance to any of the bridges. Thank you for your assistance

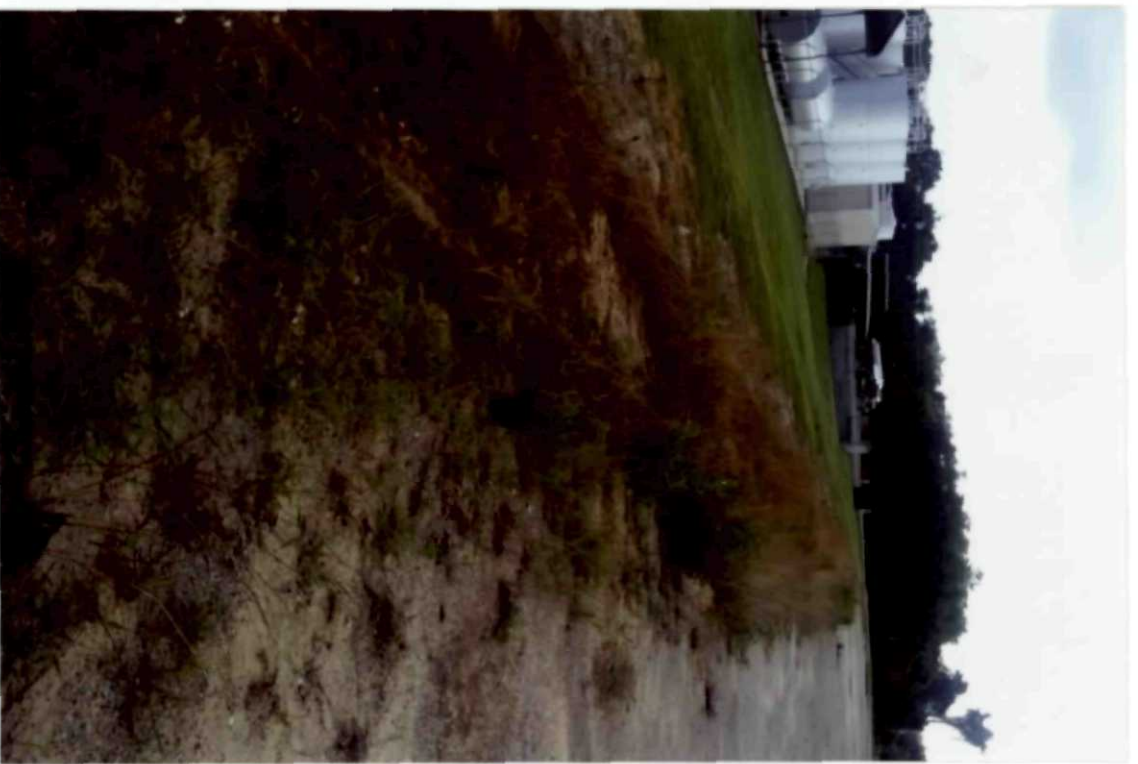
Sincerely,

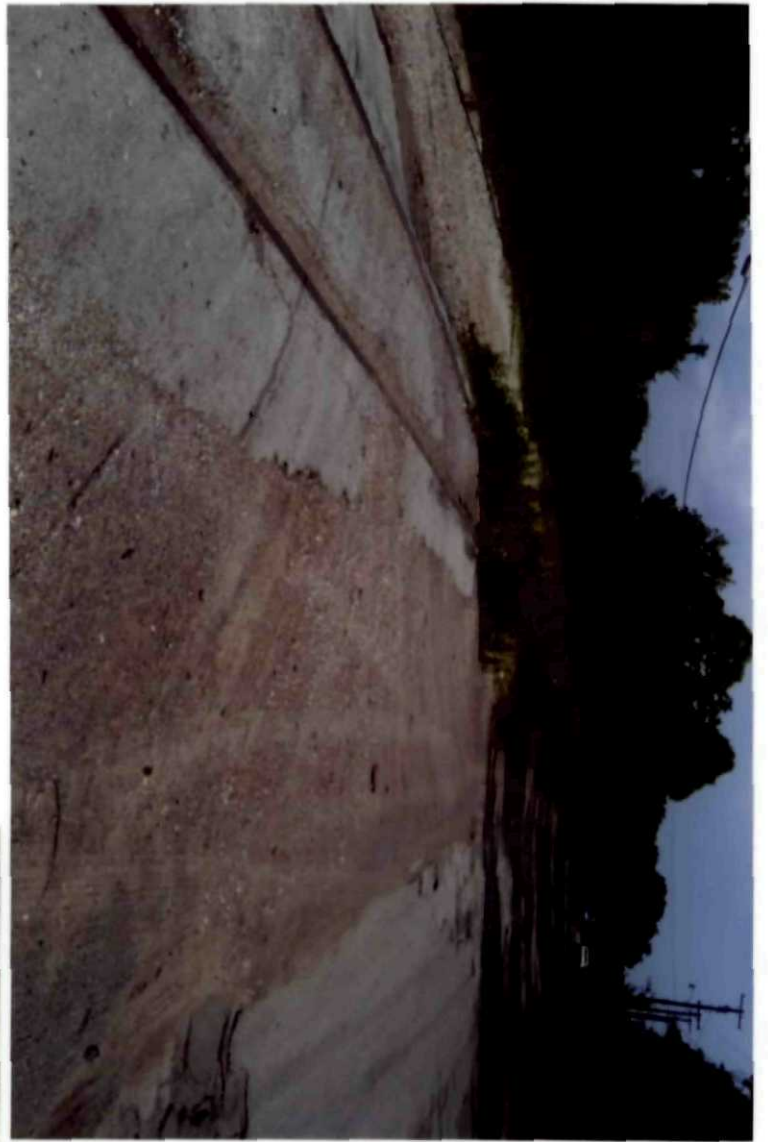

Charles W. Saylor
(402) 544-4861

Attachments

Attachment No. 6
Photographs of the immediately surrounding area







Attachment No. 7

**Transmittal letter to serve copies of the Environmental Report on entities required under
49 C.F.R. § 1105.7(b)**

**Rusk County Rural Rail District
Combined Environmental and Historic Report
STB Docket No. AB-1103X**



John Cloutier
President

June 26, 2012

Sue Henderson
Vice President

RE Rusk County Rural Rail District Rail Combined Environmental and
Historical Report

Scott Andrews
Treasurer

To whom it may concern:

Ricki Keeling
Board Member

The Rusk County Rural Rail District ("RCRRD") plans to request authority from the Surface Transportation Board ("STB") to abandon a portion of its Henderson-Overton Branch Spur from Milepost 15.2 to Milepost 16.1, a distance of 0.9 miles in Rusk County, Texas.

Dwayne Miley
Board Member

Pursuant to the STB's regulations regarding environmental reports at 49 C.F.R. Part 1105.7, the purpose of this letter is to provide your office with a copy of the Environmental Report the RCRRD intends to submit to the STB in connection with this abandonment request. This Environmental Report is combined with the Historical Report required under 49 C.F.R. Part 1105.8.

Jack Turner
Board Member

Thank you for your assistance. While there is no requirement that your office provide a response to this letter, if you have any questions, please contact me at the number shown above.

Sincerely,

John Cloutier

cc. Lori F. Winland
Locke Lord LLP

400 West Main Henderson, Texas 75652
Email: info@ruskcountyrail.org

Phone 903-657-9146 Ext 700
Fax 903-655-1296

www.ruskcountyrail.org

<p><u>State Clearinghouse (or alternate):</u> Jonathan Hurst Governor's Office of Budget and Planning P.O. Box 12428 Austin, Texas 78711</p> <p>James Randall Director of Transportation, Planning and Programming Texas Department of Transportation 118 East Riverside Plaza Austin, Texas 78704</p>	<p><u>U.S. Army Corps of Engineers:</u> U.S. Army Engineer District Fort Worth Benbrook Lake Project Office P.O. Box 26619 Fort Worth, Texas 76126-0619</p> <p><u>National Park Service:</u> National Park Service Intermountain Region 12795 Alameda Pkwy Denver, CO 80228</p>
<p><u>State Environmental Protection Agency</u> Texas Commission on Environmental Quality Region 5, Tyler Office Leroy Biggers, Regional Director 2916 Teague Dr Tyler, TX 75701-3734</p>	<p><u>U.S. Natural Resources Conservation Service.</u> USDA, Natural Resources Conservation Service Soil Survey Section W R Poage Federal Bldg. 101 South Main Street Temple, Texas 76501-7682</p>
<p><u>State Coastal Zone Management Agency (if applicable):</u> Not applicable.</p> <p><u>Head of County (Planning).</u> Rusk County Commissioners 115 North Main Street County Courthouse Henderson, Texas 75652-3147</p>	<p><u>National Geodetic Survey:</u> National Geodetic Survey Edward J. McKay, Chief Spatial Reference System Division NOAA N/NGS2 1315 E-W Highway Silver Springs, MD 20910-3282</p>
<p><u>Environmental Protection Agency (regional office):</u> U.S. Environmental Protection Agency Region 6 1445 Ross Avenue Dallas, Texas 75202-2733</p>	<p><u>State Historic Preservation Office.</u> Texas Historical Commission Linda Henderson Historian, Federal Programs History Programs Division P.O. Box 12276 Austin, Texas 78711-2276</p>
<p><u>U.S. Fish and Wildlife:</u> U.S. Fish & Wildlife Service Southwest Region 2 U.S. Fish and Wildlife Service 500 Gold Avenue SW – Room 4000 Albuquerque, NM 87102</p>	<p><u>Other Agencies Consulted:</u> Texas Parks & Wildlife Carter Smith 4200 Smith School Road Austin, Texas 78744-3291</p>

Exhibit C
Draft *Federal Register* Notice

Rusk County Rural Rail District
Petition for Exemption
STB Docket No. AB-1103X

STB No. AB-1103X

Notice of Petition for Exemption to Abandon

On September 28, 2012, the Rusk County Rural Rail District ("RCRRD") filed with the Surface Transportation Board, Washington, D.C. 20423, a petition for exemption for the abandonment of a portion of a line of railroad known as the Henderson-Overton Branch Spur, extending from railroad milepost 15.2 to railroad milepost 16.2, which traverses through United States Postal Service ZIP Code 75652, a distance of 0.9 miles, in Rusk County, Texas. The line for which the abandonment exemption request was filed does not include any stations.

The line does not contain federally granted rights-of-way. Any documentation in the railroad's possession will be made available promptly to those requesting it.

The interest of railroad employees will be protected by the labor protective conditions in Oregon Short Line R. Co.—Abandonment—Goshen, 360 I.C.C. 91 (1979).

Any offer of financial assistance will be due no later than 10 days after service of a decision granting the petition for exemption.

All interested persons should be aware that following abandonment of rail service and salvage of the line, the line may be suitable for other public use, including interim trail use.

Any request for a public use condition and any request for trail use/rail banking will be due no later than 20 days after notice of the filing of the petition for exemption is published in the Federal Register.

Persons seeking further information concerning abandonment procedures may contact the Surface Transportation Board or refer to the full abandonment or discontinuance regulations at 49 CFR part 1152. Questions concerning environmental issues may be directed to the Board's Section of Environmental Analysis.

An environmental assessment (EA) (or environmental impact statement (EIS), if necessary) prepared by the Section of Environmental Analysis will be served upon all parties of record and upon any agencies or other persons who commented during its preparation. Any other persons who would like to obtain a copy of the EA (or EIS) may contact the Section of Environmental Analysis. EAs in these abandonment proceedings normally will be made available within 60 days of the filing of the petition. The deadline for submission of comments on the EA will generally be within 30 days of its service.

Exhibit D
Newspaper Publication and the required certification

Rusk County Rural Rail District
Petition for Exemption
STB Docket No. AB-1103X

AFFIDAVIT OF PUBLICATION

THE STATE OF TEXAS
COUNTY OF RUSK
CITY OF HENDERSON

BEFORE ME, a notary public in and for the State of Texas, on this day personally appeared the person whose name is subscribed below, who, having duly sworn says upon oath that he or she is duly authorized officer or employee of the

HENDERSON DAILY NEWS

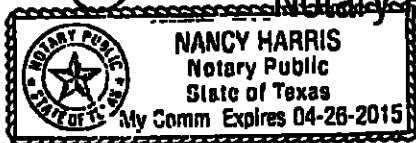
which is a newspaper of general circulation in the above named city and county; and certifies the amount charged was the lowest rate and that a true and correct copy of the said notice, a clipping of which is attached to this affidavit, was published in said newspaper on this date:

July 22, 2012
Shirley Puckett
AUTHORIZED EMPLOYEE

SUBSCRIBED AND SWORN TO BEFORE ME

on the 23 day of July 2012

Nancy Harris
Notary Public



Notice of Intent To Abandon or To Discontinue Rail Service

The Rusk County Rural Rail District (RCRRD) gives notice that on or about July 23, 2012 it intends to file with the Surface Transportation Board, Washington, DC 20423, a petition for exemption under 49 U.S.C. 10502 from the prior approval requirements of 49 U.S.C. 10903, et seq., permitting the abandonment of a 0.9 mile line of railroad between railroad milepost 15.2 and railroad milepost 16.2, which traverses through United States Postal Service ZIP Code 75652 in Rusk County, Texas. The proceeding has been docketed as No AB 1103X.

The Board's Office of Environmental Analysis will generally prepare an Environmental Assessment (EA), which will normally be available 60 days after the filing of the petition for abandonment exemption. Comments on en-

vironmental and energy matters should be filed no later than 30 days after the EA becomes available to the public and will be addressed in a Board decision. Interested persons may obtain a copy of the EA or make inquiries regarding environmental matters by writing to Surface Transportation Board, Office of Environmental Analysis, 395 E Street, SW, Washington, DC 20423-0001 or by calling the Office of Environmental Analysis at 202-245-0296.

Appropriate offers of financial assistance to continue rail service can be filed with the Board. Requests for environmental conditions, public use conditions, or rail banking/trails use also can be filed with the Board. An original and 10 copies of any pleading that raises matters other than environmental issues (such as trails use, public use, and offers of financial assistance) must be filed directly with the Board's Section of Administration, Office of Proceedings, 395 E Street, SW, Washington, DC 20423-0001 [See 49 CFR 1104.1(a) and 1104.3(a)], and one copy must be served on applicants' representative [See 49 CFR 1104.12(a)]. Questions regarding offers of financial assistance, public use or trails use may be directed to the Board's Office of Public Assistance, Governmental Affairs, and Compliance at 202-245-0238. Copies of any comments or requests for conditions should be served on the applicant's representative, John Cloutier, President, Rusk County Rural Rail District, 400 West Main, Henderson, Texas 75652.

Exhibit E
Letter of Support

Rusk County Rural Rail District
Petition for Exemption
STB Docket No AB-1103X



A Texas Railroad Corporation

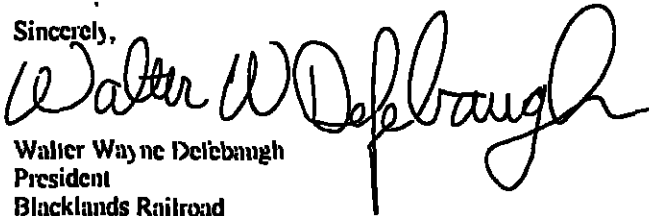
John Cloutier
Chairman
Rusk County Rural Rail Transportation District
Henderson, TX

Dear Mr. Cloutier

RE In support of the Abandonment of railroad tracks south of Hwy 64 in the county of Rusk, TX
and in the city of Henderson, TX at the very south end of the Henderson Overton Branch (HOB)
railroad

As the current operator of the HOB I am expressing my support for the abandonment of the section of
railroad mentioned above. The purpose of the abandonment is to remove the tracks from the downtown
area of Henderson Texas for construction of city streets

Sincerely,



Walter Wayne Delebaugh
President
Blacklands Railroad

641 Church St. • Sulphur Springs, Texas 75482

Toll Free 1-877-439-0738 • Phone 1-903-439-0738 • Fax 1-903-439-0809

Exhibit F
Certificate of Service

Rusk County Rural Rail District
Petition for Exemption
STB Docket No AB-1103X

CERTIFICATE OF SERVICE
OF
PETITION FOR EXEMPTION

The undersigned hereby certifies that a copy of the foregoing Petition for Exemption in Docket No. AB-1103X, from M.P. 15.2 to M.P. 16.1 in Rusk County, Texas, was served via certified mail on the 28 day of September, 2012 on the following:

Significant Users

West Fraser Timber Co., Ltd
858 Healy Street, Suite #501
Vancouver, B C
Canada V6B 1C1

Bornl Bricks
1309 Kilgore Drive
Henderson, Texas 75652

Walter Wayne Defebaugh
Blacklands Railroad
641 Church Street
Sulphur Springs, Texas 75482

State Officials and Federal Agencies
[49 CFR 1151.20(a)(2)(ii)-(xi)]

Honorable Rick Perry
Governor
State Insurance Building
1100 San Jacinto
Austin, TX 78701

Rusk County Commissioners
115 North Main Street
County Courthouse
Henderson, TX 75652-3147

Mr. James Randall
Director of Transportation, Planning & Prog
Texas Department of Transportation
118 East Riverside Plaza
Austin, TX 78704

Chairman
Railroad Commission of Texas
1701 N. Congress Avenue
Austin, TX 78701

Public Utility Commission of Texas
1701 N Congress Avenue
P O Box 13326
Austin, TX 78711-3326

U.S. Department of Transportation
Federal Railroad Administration
400 Seventh Street, S.W.
Washington, DC 20590

Director, Multi-Modal Transportation
Transportation Planning & Programming
Texas Department of Transportation
125 E 11th Street
Austin, TX 78701-2483


MTMCTEA
Attn: Railroads for National Defense
720 Thimble Shoals Blvd,
Suite #130
Newport News, VA 23606-2574

U S Railroad Retirement Board
844 Rush Street
Chicago, IL 60611

U S Department of the Interior
National Park Service
Recreation Resources Assistance Divn
P.O. Box 37127
Washington, DC 20013-7127

U S. Department of Agriculture
Chief of the Forest Service
4th Floor N.W., Auditors' Building
14th Street & Independence Ave., S W
Washington, DC 20250

Dated this 28~~th~~ day of September, 2012.


C. Brian Cassidy
State Bar No. 03978880
Locke Lord LLP
100 Congress Ave , Suite 300
Austin, Texas 78701
(512) 305-4700
(512) 305-4800 (Facsimile)

Counsel for the Rusk County Rural Rail District